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Situation of human rights defenders

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, in accordance with Assembly resolution 66/164.

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Report of the Special Rapporteur on the situation of human rights defenders

Summary

The present report is the sixth and last report submitted by the current Special Rapporteur on the situation of human rights defenders to the General Assembly, in accordance with Assembly resolution 66/164 and Human Rights Council resolution 16/5.

Section I of the report contains an introduction. In section II, the Special Rapporteur provides an initial assessment of her achievements, based on the vision she presented to the Assembly in 2008. In section III, she looks at the relationship between large-scale development projects and the activities of human rights defenders. In section IV, she sets out a human rights-based approach to development projects that she believes will allow for the meaningful and safe participation of human rights defenders at all stages of development projects. In section V, she provides conclusions and makes recommendations to various stakeholders, including in the context of the post-2015 development agenda.

I. Introduction

1. The present report is the sixth and last report submitted by the current Special Rapporteur on the situation of human rights defenders to the General Assembly, in accordance with Assembly resolution 66/164 of and Human Rights Council resolution 16/5. After providing an initial assessment of her achievements during the five years of her mandate (section II), the Special Rapporteur looks at the relationship between large-scale development projects and the activities of human rights defenders (section III) and sets out a human rights-based approach to development projects (section IV). Finally, she provides conclusions and makes recommendations (section V).

2. With regard to the thematic focus of the report, large-scale development projects and the activities of human rights defenders, the Special Rapporteur wishes to thank all Member States, national human rights institutions and non-governmental organizations that responded to the questionnaire on the topic. The information provided was taken into account in preparing the present report and the answers to the questionnaire are available from the section on the work of the Special Rapporteur of the website of the Office of the United Nations High Commissioner for Human Rights.[1]

II. Summary of achievements

3. In 2008, the current Special Rapporteur submitted her first report on the situation of human rights defenders to the General Assembly, in which she presented the vision that would guide her activities and shape her approach to the mandate (A/63/288). Five years later, she is in a position to provide a brief assessment of her achievements and point to some of the challenges lying ahead. She intends to provide a comprehensive assessment of her tenure to the Human Rights Council in March 2014.

4. The Special Rapporteur has aimed to contribute to the protection of human rights defenders by analysing trends and challenges affecting them, paying particular attention to those defenders at highest risk of experiencing violations of the rights enshrined in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders). She has also been actively engaged in promoting the Declaration through various means and providing substantive comments on its provisions and on how they should be applied. The Special Rapporteur notes that daunting challenges remain in all parts of the world in terms ensuring that human rights defenders can carry out their peaceful and legitimate activities in a safe and enabling environment, without fear of being subjected to acts of harassment, intimidation or violence of any sort.

5. Since 2008, the Special Rapporteur has submitted 11 thematic reports: six to the General Assembly and five to the Human Rights Council. In these reports, she has analysed trends and challenges affecting human rights defenders, tackling issues such as the right to freedom of association and laws restricting the functioning of

[1] See www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx.

non-governmental organizations (A/64/226), in 2009, and the worrisome trend in the use of legislation to unduly regulate and criminalize the work of human rights defenders (A/67/292), in 2012. After she presented the 2012 report to the Assembly, the Council adopted its resolution 22/6, in which it acknowledged the importance of enabling legal and administrative frameworks in avoiding any criminalization, stigmatization or restrictions of the work of defenders contrary to international human rights law. The Special Rapporteur believes that this landmark resolution represents a clear and commendable stance by the Council in support of a safe and enabling environment for activities carried out in defence of human rights.

6. In 2010, the Special Rapporteur addressed the issue of human rights violations committed by non-State actors (A/65/223), which is explored further in the present report.

7. In her vision, the Special Rapporteur indicated that she would pay particular attention to groups of human rights defenders at particular risk of having their rights violated. In this connection, she has prepared a report on the challenges faced by women defenders and defenders working on women's rights and gender issues (A/HRC/16/44) and a report on the risks faced by defenders working on land and environmental issues, journalists and media workers, and youth and student defenders (A/HRC/19/55).

8. Fulfilling her commitment to analyse obstacles and challenges to defenders' exercise of the rights set out in the Declaration on Human Rights Defenders, the Special Rapporteur provided a substantive interpretation of the Declaration to the General Assembly (A/66/203), a more extensive version of which was published, in 2011, as a document entitled "Commentary to the Declaration on Human Rights Defenders".[2] She has encouraged the translation of the Declaration into a variety of languages and facilitated its dissemination by posting more than 40 versions online.[1]

9. Following extensive consultations with Governments, national human rights institutions and international and regional organizations, the Special Rapporteur developed guidelines for enhancing measures for protecting human rights defenders (see A/HRC/13/22, para. 113). The report containing those guidelines was used as the basis for Human Rights Council resolution 13/13 of 25 March 2010, whereby the Council recognized the immediate need to take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against human rights defenders. The Special Rapporteur has also dedicated a report to the role that national human rights institutions can play in the protection of defenders (A/HRC/22/47).

10. As a means of following up on individual cases brought to her attention, the Special Rapporteur has used various forms of communication, including urgent appeals and letters of allegation, to address allegations of violations against defenders and their family members to Governments. Since 2008, she has sent over 1,500 communications, about one third of which on women defenders, to some 130 countries, concerning the situation of more than 2,000 defenders. She has issued over 60 press releases, through which she has publically expressed her concern about the situation of human rights defenders in some 25 countries. To further strengthen follow-up on individual cases, the Special Rapporteur has submitted to

[2] See www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefenders July2011.pdf.

the Human Rights Council a report each year between 2009 and 2013 containing observations on communications to and responses from Governments (see A/HRC/10/12/Add.1, A/HRC/13/22/Add.1, A/HRC/16/44/Add.1, A/HRC/19/55/Add.2 and A/HRC/22/47/Add.4).

11. In order to enhance collaboration with various stakeholders, including Governments, the Special Rapporteur has conducted 10 country visits to nine different countries since 2008, namely Armenia (2010), Colombia (in 2009, as a follow-up visit), the Democratic Republic of Congo (2009), Honduras (2012), India (2011), Ireland (2012), the Republic of Korea (2013), Tunisia (2012) and Togo (in 2008 and 2013, as a follow-up visit). These visits have provided her with an opportunity to assess the situation of defenders on the ground, collect first-hand information and testimonies about the challenges and opportunities they face and promote cooperation and dialogue between stakeholders and duty bearers.

12. The Special Rapporteur has continuously made efforts to cooperate with regional mechanisms with a mandate to protect human rights defenders through meetings, continuous communication and joint press releases. She has also conducted two joint country visits with the Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples' Rights, to Togo in 2008 (A/HRC/10/12/Add.2) and to Tunisia in 2012 (A/HRC/22/47/Add.2).

13. Finally, the Special Rapporteur has paid attention to the universal periodic review as a mechanism that could offer human rights defenders visibility and protection and improve their situation (A/HRC/10/12). She did so as part of a wider effort to ensure that human rights defenders have unhindered access to international mechanisms, especially the United Nations and its representatives in the field of human rights, as enshrined in the Declaration on Human Rights Defenders and Human Rights Council resolution 12/2. The Special Rapporteur remains very concerned about acts of reprisal and harassment and about the criminalization of human rights defenders in this context, and urges Member States to ensure that such unacceptable acts are properly investigated, that perpetrators are brought to justice and that any legislation that criminalizes activities carried out in defence of human rights through cooperation with international mechanisms is repealed.

III. Relationship between large-scale development projects and the activities of human rights defenders

14. For the purposes of the present report, the term "large-scale development projects" refers to the acquisition, lease or transfer of land or natural resources for commercial investment purposes. The Special Rapporteur does not identify a specific threshold for what should constitute "large-scale" but considers the impact of a project on its surroundings, specifically with regard to the human rights of affected communities and those defending the rights of those communities, to be a key factor.

15. Both the Special Rapporteur and the Special Representative of the Secretary-General on Human Rights Defenders have repeatedly reported on the extraordinary risks faced by those defending the rights of local communities, including indigenous peoples, minorities and people living in poverty. These human rights defenders commonly face threats, harassment, intimidation, criminalization and physical

attacks. The Special Rapporteur and the Special Representative have observed that human rights defenders are commonly branded as being against development if their actions oppose the implementation of development projects that have a direct impact on natural resources, the land and the environment. Examples of such projects include the construction of hydroelectric power stations, electric pylons, dams, highways and cement factories, and the operations of various extractive industries. Human rights defenders also speak out against forced evictions that occur in connection to development programmes and projects.

16. Rather than demonstrating opposition to development, such actions should be seen as legitimate attempts to defend the rights of those affected directly and indirectly by development projects and policies, as long as they are pursued through peaceful means. Resistance evokes a number of human rights issues, including with regard to the right to freely pursue one's economic, social and cultural development and the right not to be discriminated. Moreover, resistance can be viewed in connection with the rights to participate in the conduct of public affairs and to access information. It can also be framed as a legitimate effort to pursue the highest attainable standard of living and adequate housing and to defend one's privacy. The Special Rapporteur is of the opinion that human rights defenders and the communities whose rights they defend are free to oppose development projects through the exercise of their fundamental rights and that restrictions on those rights have to be applied in accordance with national legislation and the State's international human rights obligations. The Special Rapporteur provided observations on national legislation in her 2012 report to the General Assembly (A/67/292).

A. Background

17. The Special Representative of the Secretary-General on Human Rights Defenders addressed the risks and challenges faced by defenders working on economic, social and cultural rights in her 2007 report to the Human Rights Council. In the report, she underlined the heightened risks faced by defenders working on land rights, natural resources and environmental issues, and those campaigning against illegal or forced evictions. She also noted that defenders working on land rights and natural resources comprised the second group of defenders most at risk of being killed (A/HRC/4/37).

18. Since 2007, the situation with regard to that group of defenders seems to have worsened. In 2010, the Special Rapporteur reported on the violations committed by private corporations and businesses, which were among the non-State actors she identified as committing violations against human rights defenders. She pointed to instances in which security guards employed by oil and mining companies had allegedly threatened to kill, harassed and attacked human rights defenders protesting against the perceived negative impact of corporate activities on the enjoyment of human rights by local communities. She also highlighted cases in which local authorities had allegedly colluded with the private sector and cases in which private companies had aided and abetted the commission of violations against human rights defenders (A/65/223, paras. 10 and 11).

19. In her 2012 report to the Human Rights Council, which was devoted to groups at risk, the Special Rapporteur highlighted the dangers and challenges faced by

defenders working on land and environmental issues, including in connection with the activities of extractive industries and construction and development projects (A/HRC/19/55, para. 64). She pointed out that the main context in which violations against such defenders generally occurred was that of ongoing land disputes with both State and non-State actors, including multinational corporations and private security companies. The Special Rapporteur expressed serious concern about the risks faced by this group of defenders and noted that those defenders were highly exposed to attacks to their physical integrity and that many of them were killed. She highlighted that the stigmatization they suffered from State and non-State actors was a factor that might encourage rejection of or even violence against defenders (A/HRC/19/55, paras. 65 and 66, 117, 123 and 125).

20. The Special Rapporteur notes that the Working Group on the issue of human rights and transnational corporations and other business enterprises reported to the Human Rights Council that it had received an especially large number of cases involving conflicts between local communities and businesses over land and resources, noting that in many reports conflicts had led to the harassment and persecution of human rights defenders investigating, protesting and seeking accountability and access to remedies for victims of alleged abuses linked to business activities (A/HRC/23/32, para. 13).

B. Reasoning and approach of the Special Rapporteur regarding the relationship between large-scale development projects and the activities of human rights defenders

21. Development policy should contribute to increased respect for the human rights of those targeted and affected and strengthen their capacity to lead their lives in a dignified manner. It should be an instrument for doing more than just promote economic growth and meet basic needs: it should aim to expand people's choices, focusing especially on disadvantaged and vulnerable people.[3] Its ultimate aim should be to empower people, especially those most marginalized, to participate in policy formulation and hold accountable those who have a duty and a responsibility to act.

22. The human rights-based approach to development is built on the explicit identification of rights holders, and their entitlements, and of duty bearers, and their obligations. It grounds the development analysis in the realm of enforceable obligations and respect for internationally agreed norms, principles and standards. In order for policies and projects to effectively attain their desired results in a sustainable manner, consideration needs to be given to the human rights aspect.

23. It is during the policymaking phase that human rights standards are operationalized and State obligations materialize for local communities. For this to happen, those affected must effectively take part in the policymaking process. Human rights defenders are among the best placed to make the connections between human rights and development programming, as they are often at the heart of social dialogue and interactions between citizens and the Government at the local and

[3] United Nations Development Programme, *Human Development Report 2011: Sustainability and Equity — A Better Future for All* (Basingstoke, United Kingdom, Palgrave Macmillan, 2011). Available from http://hdr.undp.org/en/reports/global/hdr2011/download.

community levels. It is therefore vital that Governments and other relevant actors facilitate the participation of human rights defenders in the development of policies or projects, as well as in their implementation and evaluation.

24. The severe risks and violations that human rights defenders face when they become involved in large-scale development projects, however, make it very difficult for them to assume such a role. It is for that reason that the Special Rapporteur has chosen to focus on the relationship between large-scale development projects and the activities of human rights defenders in the present report. She believes that applying a human rights-based approach to development policy and projects contributes to creating the conditions necessary for human rights defenders to safely and effectively participate in the design of development policies and projects, as well as in their implementation, monitoring and evaluation, and to ensure the sustainability of such initiatives and their compliance with human rights.

25. The Special Rapporteur also believes that this topic is timely given the current deliberations on the post-2015 development agenda. Adopting a human rights-based approach in this context can make it easier for human rights defenders to participate in and make important contributions to the development of a sustainable and people-centred development framework, including by ensuring accountability of duty bearers.

C. Normative framework

26. The main elements of the human rights-based approach, in particular when applied to development policy and projects, are enshrined in different international instruments and standards. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, in their article 1, both state:

> All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

27. On the issue of participation, article 25 (a) of the International Covenant on Civil and Political Rights enshrines the right of citizens to participate, directly or indirectly and without unreasonable restrictions, in the conduct of public affairs. Article 8 of the Declaration on Human Rights Defenders provides that everyone has the right, individually or in association with others and on a non-discriminatory basis, to participate in the conduct of public affairs. That right is said to include the right to submit to governmental bodies and agencies concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

28. Instruments protecting the rights of specific populations also guarantee to those concerned the right to participation. The obligation of consulting with the objective of obtaining the free, prior and informed consent of indigenous peoples

through their own representative institutions whenever consideration is being given to legislative or administrative measures that may affect them directly is established in the United Nations Declaration on the Rights of Indigenous Peoples (General Assembly resolution 61/295, annex, articles 18 and 27) and in the Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169) of the International Labour Organization. Furthermore, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities provides for the right of minorities to participate in decision-making and the obligation of States to ensure such participation, including in economic progress and development (Assembly resolution 47/135, annex, articles 2 and 4).

29. The issues of transparency and access to information are directly linked to the right to seek, obtain and impart information, which is enshrined in article 19 of the International Covenant on Civil and Political Rights. Specifically, paragraph 2 of that article establishes that everyone should be free to seek, receive and impart information and ideas of all kinds. Article 6 of the Declaration on Human Rights Defenders elaborates on this right, establishing that everyone has the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.[4] Article 14 of the Declaration stipulates that States have the responsibility to take legislative, judicial and administrative measures to promote the understanding by all persons under their jurisdiction of their human rights, including through the publication and widespread availability of laws and regulations.

30. With regard to the State's responsibility to protect, the right to life, liberty and security of person is enshrined in article 3 of the Universal Declaration of Human Rights and in articles 6 (1) and 9 (1) of the International Covenant on Civil and Political Rights. This obligation is further emphasized in the Declaration on Human Rights Defenders, in particular in its articles 2, 9 and 12, which elaborate on the State's primary responsibility and duty to protect all human rights, which is established in article 2 of the Covenant. Both negative and positive aspects are included: on the one hand, States must refrain from violating the rights of human rights defenders; on the other hand, they should act with due diligence to prevent, investigate and bring to justice the perpetrators of any violation of the rights enshrined in the Declaration on Human Rights Defenders. Moreover, States bear the primary responsibility for protecting individuals, including human rights defenders, under their jurisdiction, regardless of the status of the alleged perpetrators (A/HRC/13/22, para. 42).

31. The State's obligation to provide an effective remedy for human rights violations is enshrined in article 2 (3) (a) of the International Covenant on Civil and Political Rights. Article 9 of the Declaration on Human Rights Defenders further underscores that everyone performing activities in defence of human rights has the right to benefit from an effective remedy and to be protected in the event of

[4] See also article 21 (1) of the Universal Declaration of Human Rights; article 5 (c) of the Convention on the Elimination of All Forms of Racial Discrimination; article 7 (b) of the Convention on the Elimination of All Forms of Discrimination against Women; article 23 (1) (a) of the American Convention on Human Rights; article 13 (1) of the African Charter on Human and Peoples' Rights; and general comment No. 25 of the Human Rights Committee on article 25 of the International Covenant on Civil and Political Rights, as well as the jurisprudence of the Committee with respect to violations of article 25 (a) of the Covenant.

violations (see also A/65/223, para. 44). Both the Special Rapporteur and the Special Representative on the situation of human rights defenders have emphasized that prompt and impartial investigations into alleged violations, prosecution of the perpetrators regardless of their status, provision of redress, including appropriate compensation to victims, and enforcement of the decisions or judgments are fundamental actions that must be taken in order to protect the right to an effective remedy. They have observed that failure to take these actions leads to further attacks against human rights defenders and further violations of their rights (see A/58/380, para. 73, and A/65/223, para. 44).

32. Transnational corporations and other business enterprises are required to respect human rights, as set out in the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex), which were endorsed by the Human Rights Council in its resolution 17/4. The Guiding Principles aim to implement the United Nations "Protect, Respect and Remedy" Framework, which rests on three pillars: the State duty to protect against human rights abuses by third parties, including businesses; the corporate responsibility to respect human rights; and the need for access to effective remedy for victims of business-related human rights abuses (see A/HRC/17/31, para. 6).

IV. Rights-based approach to development programming and its implications for the safe and effective participation of human rights defenders

33. The human rights-based approach to development policy and programming is based on the normative framework of international human rights standards and seeks to analyse inequalities that lie at the heart of the development process. It aims to redress discriminatory practices and the unfair distribution of power, which hamper sustainable human development.[5]

34. If applied in a meaningful way, the human rights-based approach to development programming establishes the mechanisms and conditions for rights holders affected by development projects to be able to safely and effectively claim their rights. At the same time, it ensures that duty bearers, notably the State, meet their international obligations and are held accountable.

35. Human rights obligations place binding limits on State powers and actions and make Governments responsible for complying with international commitments. States must exercise due diligence by respecting, protecting and fulfilling human rights. In the development context, States should take steps towards the progressive realization of human rights within the maximum available resources while refraining from committing human rights abuses and while protecting individuals within their jurisdiction against violations, including by third parties. The Committee on Economic, Social and Cultural Rights recognized that while it might be necessary to sometimes take retrogressive measures, namely measures that do not contribute to the progressive realization of human rights, doing so would need to be justified by reference to the totality of the rights provided for in the International

[5] Office of the United Nations High Commissioner for Human Rights, "Frequently asked questions on a human rights-based approach to development cooperation" (2006). Available from http://www.ohchr.org/Documents/Publications/FAQen.pdf.

Covenant on Economic, Social and Cultural Rights and in the context of the full use of the maximum available resources (see general comment No. 3, on article 2 (1) of the Covenant).

36. The human-rights based approach is guided by the principles of equality and non-discrimination, participation, transparency and accountability in all stages of policymaking, from assessment, project design and planning to implementation, monitoring and evaluation. In order to adequately incorporate the needs of human rights defenders in this approach, special emphasis should be placed on ensuring the safety and protection of those involved and on the availability and effectiveness of accountability and grievance mechanisms.

37. Rather than being perceived as demonstrating an opposition to development, the positions advocated and the activities undertaken by defenders and leaders of local communities affected by large-scale development projects should be seen as expressions of support for a sustainable model of development that is people-centred, non-discriminatory, participatory and transparent and that requires public authorities and others responsible for implementation to be held accountable for their actions.

A. Equality and non-discrimination

38. The principles of equality and non-discrimination are the foundations of international human rights and, as such, are enshrined in the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights. In line with both, all States parties have an obligation to guarantee that all rights are exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

39. Equality and non-discrimination imply that the human rights of communities and population groups affected by large-scale development projects should not be violated at any stage of the process. For the Special Rapporteur, this means that defenders working on behalf of or as part of populations affected by such projects should be fully and meaningfully involved in their design, implementation and evaluation. Particular attention has to be paid to those who traditionally have been marginalized and excluded from decision-making processes to ensure that their concerns are heard and that the impacts of such projects do not violate their rights.

40. Those responsible for large-scale development projects should pay particular attention to multiple grounds of discrimination, as the intersection of such grounds could lead to different and even more adverse effects among those affected by the projects (see general comment No. 20, on article 2 (2) of the International Covenant on Economic, Social and Cultural Rights). For example, women in a rural community are likely to experience the effects of such projects differently from men, and their economic and social status could aggravate this situation. Those defending women's rights face particular challenges and additional risks linked to the work that they do and the issues they face are challenging, which is why it is important that they be able to do their work without incurring retaliation of any sort.

41. Furthermore, those responsible for the project should make sure that those traditionally marginalized and excluded from decision-making are able to voice

their opinion and participate on their own terms in the process. At the outset, data collected during the assessment stage needs to be collected in such a way as to allow for it to be disaggregated by gender, income, social or other status, and other relevant factors.

42. The Special Rapporteur observes that Member States have adopted different approaches to ensure that the rights of those affected by large-scale development projects are respected. In Colombia, the National Hydrocarbons Agency is required by law to spell out in any contract it issues the methodology it will use to assess the impact of a project on affected populations and the way in which the project will benefit them (see decree No. 1760 of 26 June 2003). Prior consultation is also a right of marginalized populations in Colombia (see presidential decree No. 1 of 26 March 2010), but the Special Rapporteur notes that there appear to be different interpretations of what this right implies, which lead to discrepancies in the way in which it is applied. The Special Rapporteur is concerned about reports received from a number of countries alleging that community members and defenders of their rights who have made efforts to express their concerns about development projects affecting them have been met with excessive use of force and the issuance of states of emergency rather than dialogue.

43. The Special Rapporteur believes that the best way of ensuring that the principles of equality and non-discrimination are respected in the context of large-scale development projects is through the use of human rights impact assessments. Such assessments should be designed and conducted, on a regular basis, with due consideration being given to human rights and should ensure that the potential impacts of a project are investigated keeping in mind the potential existence of different grounds for discrimination. A human rights impact assessment would be based on an analysis of human rights obligations, not just of the impact of the project on trade or sustainability.[6] The Special Rapporteur strongly encourages the systematic use of human rights impact assessments, in line with the principles elaborated upon in the present report.

44. In this context, the Special Rapporteur notes that the Guiding Principles on Business and Human Rights require that companies identify and assess any actual or potential adverse human rights impacts through meaningful consultation with potentially affected groups, as an integral part of their responsibility to respect human rights. Such impact assessments should be carried out not only at the start of a new project or business relationship, but also periodically throughout the life cycle of the project, prior to any planned significant changes or if there is a significant shift in the operating context (for example, in the event of rising social tensions) (see Guiding Principle No. 18).

B. Participation

45. As already mentioned, participation in public affairs is a right recognized in various human rights instruments, including the Declaration on Human Rights Defenders. The Special Rapporteur emphasizes that besides being a right in itself,

[6] World Bank and the Nordic Trust Fund, *Human Rights Impact Assessments: A Review of the Literature, Differences with Other Forms of Assessments and Relevance for Development* (2013). Available from http://siteresources.worldbank.org/PROJECTS/Resources/40940-1331068268558/HRIA_Web.pdf.

participation is an obvious means of ensuring respect for other human rights, including the right to be treated equally and without discrimination. The principle of participation affords genuine ownership and a sense of control over the development process to those affected by the project or policy in question. It is important to ensure involvement at all phases (assessment and analysis, project design and planning, implementation, monitoring and evaluation).

46. Communities and those defending their rights should participate actively, freely and meaningfully in the process and be protected from retaliation and other violations at all stages. Ensuring such participation and protection is a responsibility of both State and non-State actors involved in large-scale development projects. Participation goes beyond mere consultation; it implies active involvement and empowerment of defenders and building their capacity to interact effectively with other stakeholders.

47. When it comes to ensuring that local communities affected by projects and those defending their rights have an opportunity to participate effectively from the early stages of the project, it is essential that those implementing projects acknowledge the existence of rights at the local level and the importance of protecting them. The use of "community protocols", by which communities outline their expectations to stakeholders, could be useful to this end.[7]

48. As mentioned above, in order to respect the principles of equality and non-discrimination, it is important to ensure that those affected are able to participate in the process on their own terms. Information conveyed about the project must be in the language or languages of the affected communities, and participation should be facilitated to allow the views of the affected communities to be effectively communicated, in a manner that takes into consideration the level of literacy and is culturally sensitive. In this context, human rights defenders working with local communities can play a crucial role in facilitating communication between them and those responsible for the policy or project and in conveying information in ways that are understandable to those affected. The Special Rapporteur is also aware of situations where national human rights institutions have assumed a similar role and strongly encourages their engagement in such processes where appropriate (see A/HRC/22/47, paras. 106-108).

49. The Special Rapporteur emphasizes the need to ensure the participation of those traditionally marginalized or excluded from decision-making processes. A central aspect in this regard is the need to build the capacity of such people to analyse issues affecting them and voice their opinion on those issues during the process. State and non-State actors responsible for the development and implementation of projects or policies should facilitate such involvement as a matter of priority. To this end, it could be useful to collaborate with non-governmental organizations and human rights defenders.

50. Those responsible for the implementation of large-scale development projects should be attentive to expressions of concern or discontent regarding participation and other related issues by local communities and human rights defenders. Such

[7] Global Witness, the Oakland Institute and the International Land Coalition (2012), *Dealing with Disclosure: Improving Transparency in Decision-making over Large-scale Land Acquisition, Allocations and Investments* (2012), p. 24. Available from www.globalwitness.org/sites/default/files/library/Dealing_with_disclosure_1.pdf.

expressions might take the form of protests, including in public spaces, which should be respected by non-State and, in particular, State actors responsible for law enforcement and protection during public assemblies.

51. In addition, the free, prior and informed consent of indigenous peoples must be obtained for any negotiation or consultation process on large-scale development projects to take place.[8] The concept of free, prior and informed consent has come about as a result of the recognition that indigenous peoples have strong cultural attachments to the territories they inhabit. The Special Rapporteur on the rights of indigenous peoples has emphasized the need for Governments to engage in consultations with indigenous peoples in good faith, with the objective of achieving consent (A/HRC/12/34, paras. 46-49). The Special Rapporteur on the situation of human rights defenders is concerned about cases reported to her in which free, prior and informed consent has not been sought, has been sought only to a limited extent or has been sought at the same time as coercion has been exerted on communities.

52. The Special Rapporteur is encouraged by the various initiatives that have come to her attention during the preparation of the present report to enhance the participation of stakeholders in large-scale development projects, notably those designed to benefit local communities. She has observed that more needs to be done, however, in terms of implementation and urges State and non-State actors to strengthen their efforts in this area. Moreover, she notes that the right of indigenous people to free, prior and informed consent is in many cases not respected because, despite being protected by law, it is not incorporated in the regulatory framework of business enterprises, which limits implementation considerably.

C. Protection

53. The Special Rapporteur has observed that when human rights defenders are involved in the implementation and monitoring of large-scale development projects they are exposed to serious risks, including to their physical integrity. Since 2007, the Special Rapporteur has considered about 100 cases dealing with defenders involved in monitoring the implementation of large-scale development projects, mostly related to the operations of extractive industries but also to land disputes. The operations of hydroelectric and energy-related industries have also created situations that have led to an intervention by the Special Rapporteur.

54. Brazil, Cambodia, Guatemala, Mexico, Peru and the Philippines have received the largest number of communications from the Special Rapporteur in this regard. Almost one third of the communications sent during the period under review relate to allegations of killings and attempted killings. In the opinion of the Special Rapporteur, this shows that the risks faced by human rights defenders working in the context of development projects are extremely serious. Very often, defenders receive threats, including death threats that are then followed by attacks. Moreover, defenders working on these issues are arrested and detained and their activities are criminalized, including when they are carried out in accordance with the exercise of fundamental rights, notably the right to freedom of peaceful assembly and the right to freedom of expression.

[8] United Nations Declaration on the Rights of Indigenous Peoples, articles 10, 11 (2), 19, 28 (1), 29 (2) and 32 (2).

55. Country visits undertaken by the Special Rapporteur since 2007 have shed light on the high risks faced by human rights defenders involved in large-scale development projects. When she visited Honduras in 2012, the Special Rapporteur expressed concern about the reports and testimonies she had received of violations and abuses committed against defenders working for the rights of indigenous and other local communities by law enforcement authorities, often in collusion with private security firms hired by the corporate sector. While recognizing the legitimate right of the Government to promote private investment, the Special Rapporteur expressed concern about the "state of fear" affecting defenders working on environment-related issues and opposing projects by private companies or the State, in particular in the construction of dams and in the mining and tourism sectors.

56. When the Special Rapporteur visited India in 2011, she pointed to the vulnerability of defenders engaged in denouncing development projects that threatened or destroyed the land, natural resources and the livelihoods of affected communities. Those defenders had been stigmatized and branded as being "anti-Government" or "sympathizers of Naxalites"; they had been arrested and ill-treated and, in some instances, killed. She specifically highlighted the killings of at least 10 individuals who had filed petitions under the Right to Information Act, denouncing violations connected to scams, illegal mining and illegal hydroelectric power operations.

57. The Special Rapporteur on the rights of indigenous peoples has dedicated three reports (A/HRC/18/35, A/HRC/21/47 and A/HRC/24/41) to the impact of extractive industries on indigenous territories where mining, forestry, oil and natural gas extraction and hydroelectric projects have affected the lives of indigenous communities. The Special Rapporteur underlined reports of an escalation of violence by Governments and private security forces as a consequence of extractive operations in indigenous territories, especially against indigenous leaders, and of a general repression of human rights in situations where entire communities had voiced their opposition to extractive operations (A/HRC/18/35, para. 38). He pointed to a lack of operative consensus about the extent and means of realization of the State's duties with regard to resource extraction and development projects and a lack of a minimum common ground for understanding the key issues by all actors concerned (A/HRC/18/35, paras. 62 and 66).

58. Against this background, the Special Rapporteur on the situation of human rights defenders wishes to emphasize the obligation of States to provide protection to those claiming their legitimate right to participate in decision-making processes and voicing their opposition to large-scale development projects, as well as those defending the rights of local communities in this context. Article 3 of the Universal Declaration of Human Rights, articles 6 (1) and 9 (1) of the International Covenant on Civil and Political Rights and article 12 (2) of the Declaration on Human Rights Defenders enshrine the right to be protected, which places duties on the State that are relevant the scope of this report. It is of utmost importance that those who participate in processes relating to large-scale development projects, including assessments, project design, implementation, monitoring and evaluation, can do so without fear of retaliation or persecution from State and non-State actors alike. Furthermore, if those affected by large-scale development projects choose to express themselves outside of the process organized by those responsible for such a project, for example through public assemblies, print publications or social media, such

activities should be facilitated and those involved should be protected from threats or retaliation.

59. As the Special Rapporteur has argued in her 2011 and 2012 reports, law enforcement officials need to be properly trained in order to apply a proportionate use of force and provide protection to peaceful protesters during assemblies (A/66/203, paras. 21-27, and A/67/292, para. 22). In cases of threats made against human rights defenders, the State is required under articles 2 and 12 (2) of the Declaration on Human Rights Defenders to implement protection measures. The Special Rapporteur has also emphasized on previous occasions that such measures need to be designed and implemented in close cooperation with those they are intended to protect, whether they are organized on an ad hoc basis or form part of a broader protection programme (A/HRC/13/22, paras. 68-91). In the context of large-scale development projects, the Special Rapporteur recommends making the protection of those affected by such projects and those acting on their behalf an integral part of an overall strategy, in order to ensure that those affected can effectively participate in the process without fear of retaliation. The Special Rapporteur notes that ensuring the effective participation of rights holders in projects can contribute significantly to defusing tensions among duty bearers and that defusing tensions would constitute a first step towards enhancing the protection of rights holders.

60. Private companies that are involved in large-scale development projects and that employ private security forces, as is often the case in the context of large-scale infrastructure and extractives projects, should assess, in consultation with the affected communities, the potential risks of employing such forces. Furthermore, they should ensure that private security forces receive adequate training on human rights, including with respect to the role and rights of defenders, and have in place mechanisms for reporting and investigating any allegations of abuse. Companies employing private security forces should consider abiding by initiatives such as the Voluntary Principles on Security and Human Rights and the International Code of Conduct for Private Security Service Providers. They may also need to assess potential risks from security provided by State security forces. Some companies have conducted human rights training with State security forces in order to reduce the risk of resorting to the disproportionate use of force.

D. Transparency and access to information

61. The principle of transparency relates to the availability and accessibility of relevant information. Access to information is a right enshrined in article 19 (2) of the International Covenant on Civil and Political Rights. It is essential for the ability of rights holders to understand how their rights will be affected, how to claim rights that could be undermined by a large-scale development project and how to ensure the accountability of stakeholders and duty bearers. Human rights defenders are directly affected by this dimension of development projects and play a key role in communicating the relevant aims of the projects and in building trust among affected communities. In order to carry out these functions effectively, they need to be able to access relevant information about the project.

62. Article 6 (a) of the Declaration on Human Rights Defenders recognizes the right to actively seek information and obtain access to it, which places certain

obligations on States to make relevant information available. The Special Rapporteur has previously indicated what standards should be applied in this regard (see A/67/292, paras. 51-55). Article 6 (a) of the Declaration also enshrines the right of defenders to receive and hold information, which is essential to their monitoring and documentation activities. Information relating to large-scale development projects should be publically available and accessible. In order for such information to be available to those affected by a given project, it needs to be provided in the appropriate languages and through the appropriate media.

63. With regard to private enterprises, the Guiding Principles on Business and Human Rights provide that in order to account for how they address their human rights impacts, companies should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of stakeholders. Such communications should be of a form and frequency that reflect the impacts and is accessible to the intended audience and should provide sufficient information to evaluate the adequacy of the company's response to the particular impact involved (see Guiding Principle No. 21).

64. When there is information about the project that needs to be kept confidential, the decision not to disclose such information should be based on established criteria spelled out in the project concept or, in the case of a Government, in law. The Special Rapporteur finds the principle of maximum disclosure to correspond most closely with international standards and that that principle should apply to any access-to-information regime, including in connection to large-scale development projects that could have an impact on matters of public interest. Exceptions to this principle should be applied only when disclosing information would harm the interests of the State, as provided for in legislation compliant with international human rights law (A/67/292, paras. 51-55, and Human Rights Council resolution 22/6, para. 11 (e)).

65. In the context of large-scale development projects, timely disclosure of information about project conceptualization and preparation, including contracts and subcontracts, documents with information about parties involved, financing frameworks, terms and conditions, impact assessments and mitigation strategies should be made available to the extent possible. The Extractive Industries Transparency Initiative, a multi-stakeholder voluntary mechanism that aims to increase the transparency of natural resource revenues by developing standardized reporting requirements for companies and Governments, has made a significant, positive contribution to increasing transparency in this sector. The initiative also offers relevant lessons learned regarding the difficulties and, at times, the unwillingness of Governments and private companies to disclose such information.

66. In this connection, anyone who in good faith discloses information on large-scale development projects that they think is of public interest should be protected against retaliation. The necessary legal, institutional and administrative framework needs to be in place to ensure the integrity and protection of whistle-blowers in connection to development projects in order to guarantee their right to seek and disseminate information and also the right of the public to receive relevant information about the human rights situation in a particular context or country.

67. The principle of transparency should not be applied only to the technical aspects of accessibility and availability. It should be recognized that the process of requesting access to information can be very complex, and that both local

communities and those working to defend their rights might have difficulties in obtaining such information if they lack the technical knowledge about the issues at stake. States and other actors involved should do their utmost to assist stakeholders in obtaining such information. This is an area where the assistance of national and international non-governmental organizations with expertise in the issues at stake could also provide much-needed support to local communities. Capacity-building for defenders and those affected by development projects is therefore a crucial aspect of every project and should be provided for when planning and implementing such projects and when monitoring their impact.

68. Lack of information and transparency and opaque decision-making are not only major flaws in the implementation of large-scale development projects. They can also lead to the disempowerment and vulnerability of defenders and affected communities, and seriously undermine the credibility and legitimacy of both State and non-State actors involved in the projects.

69. The Special Rapporteur is dismayed by the reports she has received during the preparation of the present report indicating that relevant information is seldom made available to human rights defenders and local communities who request it. The Special Rapporteur observes that defenders and those affected respond by approaching private companies directly, because they find the assistance of the State inadequate or non-existent.

E. Accountability mechanisms and redress

70. The principle of accountability requires all stakeholders, especially those considered to be duty bearers, to be responsible for specific outcomes and actions, in accordance with their obligations under the standards, laws, rules and regulations that govern their work. To this end, mechanisms must be in place for rights-holders to communicate their grievances, claim responsibilities and obtain effective redress if violations occur, without fear of intimidation of any sort. In this context, the Special Rapporteur notes with dismay that the Working Group on the issue of human rights and transnational corporations and other business enterprises, in its 2013 report to the Human Rights Council, reported having received grave allegations of harassment, persecution and retaliation against human rights defenders seeking judicial remedy for business-related violations (A/HRC/23/32, para. 47).

71. Traditional ways of ensuring accountability are channelled through the justice system. However, in some instances, State-based judicial structures do not operate in a timely or effective manner and therefore are not ideal avenues for upholding the rights of communities affected by large-scale development projects and those defending such rights. This situation can arise from the considerable time it takes for a case to pass through the courts and from the expense that such a process implies for those affected, to name but two reasons. Such constraints can create important accountability deficits and contribute to a climate of impunity that can expose affected communities and those defending their rights to acts of intimidation, even attacks. The existence of other accountability mechanisms, whether State-based administrative institutions (e.g. national human rights institutions and ombudspersons), grievance mechanisms attached to multi-stakeholder initiatives or independent oversight mechanisms, is therefore crucial in the context of large-scale

development projects. The role of national human rights institutions as non-judicial, independent mechanisms can be very important in ensuring appropriate accountability and redress for human rights violations linked to the implementation of large-scale development projects.

72. Private enterprises, as well as State donors and private donors, can also contribute to accountability, for example by establishing mechanisms, either by themselves or in cooperation with other stakeholders. All non-judicial grievance mechanisms, whether State- or non-State-based, should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and, in the case of company- or project-level mechanisms, based on dialogue and engagement (see Guiding Principle No. 31 of the Guiding Principles on Business and Human Rights).

73. Affected communities and defenders of their rights should have information about how and to whom to submit a complaint, as well as on the established timeline and stages for processing their complaint. Locally, village-level forums can make it easier to register questions and concerns and immediately obtain answers to questions regarding a large-scale project.[9] It is particularly important to ensure that such mechanisms are available to those most at risk of violations, as in many cases they are also among the most marginalized of those affected and hence have few means of accessing such mechanisms. Human rights defenders can play a crucial role in facilitating access to accountability mechanisms for affected communities, including those most marginalized.

74. The option of integrating human rights safeguard policies supported by accessible and effective accountability mechanisms into development projects can complement and even reinforce existing formal structures. These mechanisms, which can be administered by the business sector, alone or with stakeholders, by an industry association or by a multi-stakeholder group, should comply with the criteria for effectiveness and responsiveness set out in the Guiding Principles on Business and Human Rights (see, in particular, Guiding Principle No. 31). These mechanisms should never be used to preclude access to judicial remedy. However, when implemented effectively, they can enable the early identification and resolution of issues that have an adverse impact on human rights, and can enable project actors to address systemic issues that contribute to human rights violations.

75. Grievance mechanisms can also be implemented in the home countries of international corporations and in donor countries. The example of the national contact points for the Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development was highlighted to the Special Rapporteur by various stakeholders during the preparation of the present report as being an important mechanism in a number of countries. The Inspection Panel of the World Bank was also mentioned as a viable mechanism for individuals who believe that their rights have been infringed upon as a result of the implementation of World Bank-funded projects. Mention was also made of the Compliance Advisor/Ombudsman, the grievance mechanism for those affected by projects financed by the International Finance Corporation and the Multilateral Investment Guarantee Agency.

[9] Bridges Across Borders Cambodia/Equitable Cambodia and Heinrich Böll Stiftung Cambodia, "A Human Rights Approach to Development of Cambodia's Land Sector" (2012). Available from www.boell.de/downloads/201209_A_Human_Rights_Approach.pdf.

76. It should be safe for those who wish to report human rights concerns and violations to access existing accountability and grievance mechanisms; these people should not suffer any acts of violence or retaliation for having engaged with these mechanisms. The necessary confidentiality procedures, early-warning systems, risk assessment protocols and protection measures should be built into the accountability mechanisms so that they can react promptly and offer effective protection to alleged victims of human rights violations or those reporting on their behalf.

V. Conclusions and recommendations

A. Conclusions

77. **Communities and those defending their rights play a crucial role in shaping development policies and projects that are people-centred and non-discriminatory by impeding economic and political elites to monopolize the development of such policies and projects. Human rights defenders are key for ensuring the effective implementation of a human rights-based approach to development, as outlined above, which is why they should be able to carry out their activities without fear of intimidation or harassment of any sort. This is particularly relevant in the context of the discussion on the post-2015 development agenda. Civil society is calling for meaningful participation, higher levels of accountability from Governments and international institutions and the protection of human rights under the rule of law.**[10]

78. **Human rights defenders are at the heart of the development process and can be key actors in ensuring that development is inclusive, fair and beneficial for all and that dialogue is used to reinforce social cohesion and pre-empt conflict and the radicalization of positions. Defenders can play a crucial role as members of teams conducting human rights impact assessments, formal multi-stakeholders oversight mechanisms and mediation and grievance mechanisms and as independent watchdogs monitoring the implementation of large-scale development projects.**

79. **In order for defenders to play such a role, State and non-State actors responsible for large-scale development projects need to engage with stakeholders, including affected communities and those defending their human rights, in good faith. A human rights-based approach to development requires this; if stakeholders are not engaged in good faith, the process remains a formality and an opportunity will be lost in terms of improving relations and defusing tensions among stakeholders and ensuring sustainable and people-centred development, as well as in terms of the sustainability of the project itself.**

[10] United Nations system task team on the post-2015 United Nations development agenda, "Towards freedom from fear and want: human rights in the post-2015 agenda" (May 2012). Available from www.un.org/millenniumgoals/pdf/Think%20Pieces/9_human_rights.pdf.

B. Recommendations

80. **In the light of the conclusions set out above, the Special Rapporteur wishes to make the following recommendations to the various stakeholders.**

81. **States should:**

(a) **Enshrine a human rights-based approach to development in relevant legislation and administrative regulations, ensuring that contracts, permits, certificates and other documentation required for large-scale development projects to go ahead, to include the elements mentioned in section IV above, most notably participation of affected communities and those defending their rights in decision-making related to such projects;**

(b) **Oblige those responsible for large-scale development projects to carry out human rights impact assessments and human rights due diligence on an ongoing basis;**

(c) **Consider the substantive incorporation of a human rights-based approach in national development plans and the effective implementation of the human rights aspects of such plans;**

(d) **Refrain from stigmatizing communities affected by large-scale development projects and those defending their rights, and recognize that their concerns are legitimate and necessary components in a process aimed at securing sustainable human development;**

(e) **Ensure that the rights to freedom of expression, association and peaceful assembly are respected by allowing those affected by large-scale development projects to express concern and discontent, and ensure in this context that those protesting are protected from violations, notably by ensuring that law enforcement officials are properly equipped and trained to apply proportionate use of force if needed;**

(f) **Engage with all stakeholders in large-scale development projects, especially communities affected and individuals defending their rights, in good faith, not just as a formality;**

(g) **In collaboration with non-governmental organizations and human rights defenders, make every effort to strengthen the capacity of those traditionally marginalized or excluded from decision-making to actively and meaningfully participate in decision-making processes that affect them;**

(h) **Recognize the protection needs of those engaging in development processes and provide protection accordingly, in close consultation with those in need of protection;**

(i) **Consider enshrining in law clear provisions for access to information that facilitate maximum disclosure and allow exceptions to the principle of maximum disclosure only in clearly defined and limited circumstances, in compliance with international standards on the right to access to information;**

(j) **In a similar vein, provide for similar regulations with regard to access to information in contracts, permits, certificates and other documentation required for large-scale development projects to go ahead;**

(k) **Facilitate and assist communities affected by large-scale development projects and those defending their rights in obtaining information regarding a given project, as the complexity of the information might make it difficult to find;**

(l) **Ensure that information communicated to communities affected and those defending their rights is conveyed in a manner that is understandable to them and is culturally sensitive, through appropriate media and in a language they understand;**

(m) **Enshrine the protection of whistle-blowers in law and in practice;**

(n) **In the case of indigenous peoples affected by large-scale development projects, recognize their right to free, prior and informed consent where this has not already been done, incorporate that right in the regulatory framework for large-scale development projects and implement it effectively;**

(o) **Ensure that various types of accountability mechanisms are available to those who feel that their rights have been infringed upon in the context of large-scale development projects, including judicial and administrative mechanisms that are well resourced, impartial, effective, protected against corruption and free from political and other types of influence;**

(p) **Where appropriate, consider facilitating the creation of multi-stakeholder initiatives and independent oversight mechanisms in addition to State-based accountability mechanisms;**

(q) **Ensure that State-based accountability mechanisms respect standards for confidentiality and have an early warning system in case of threats or other violations against those who have filed or are considering filing a petition, with proper risk assessment and protection measures available;**

(r) **Empower national human rights institutions to deal with complaints relating to large-scale development projects.**

82. **In the context of the post-2015 development agenda, States should:**

(a) **Ensure that the post-2015 development agenda is guided by internationally agreed human rights principles and standards, both during its development and its implementation, and that it ensures the active and meaningful participation of affected communities and individuals advocating their rights in the implementation of all development goals, and strengthen their capacity to do so;**

(b) **Recognize the important role of human rights defenders in developing and implementing the post-2015 development agenda in the outcome document, and also recognize the right of defenders to participate in such processes, monitor progress, hold those responsible to account at the national and local levels and be protected from violations in this context.**

83. **Private companies should:**

(a) **Exert human rights due diligence in all operations;**

(b) **Adopt a policy commitment to respect all human rights that is approved at the highest levels of the organization, and perform ongoing human rights impact assessments in a meaningful way and in every project, with the**

full participation of potentially affected communities, those defending their rights and, especially, those traditionally marginalized or excluded from decision-making;

(c) Fully involve stakeholders, especially affected communities and those defending their rights, in all stages of large-scale developments projects, and engage with such stakeholders in good faith and in a meaningful way, not just as a formality;

(d) Be attentive to displays of concern and discontent that take place outside the processes facilitated by the company, for example public assemblies, and refrain from stigmatizing those expressing themselves in such a way;

(e) Ensure that they, as well as security companies and other subcontractors, respect human rights defenders and do not harass or perpetrate violence against them and that those employing private security forces consider joining initiatives such as the Voluntary Principles on Security and Human Rights and the International Code of Conduct for Private Security Service Providers;

(f) Assess any security issues in close cooperation with human rights defenders and communities affected by large-scale development projects;

(g) Disclose information related to large-scale development projects in a proactive and timely manner and in a way that is understandable and accessible to the affected stakeholders, and have clear and publicly communicated provisions for when information can be withheld from publication;

(h) Engage in initiatives, notably the Extractive Industries Transparency Initiative and the United Nations Global Compact, aimed at increasing the transparency of corporations;

(i) Establish accountability mechanisms, including project- or company-level grievance mechanisms, that are legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on dialogue and engagement (see Guiding Principle No. 31 of the Guiding Principles on Business and Human Rights);

(j) Cooperate fully with State-based and other accountability mechanisms.

84. Donors and investors should:

(a) Fully integrate a human rights-based approach in their policies for allocating funds to projects, especially large-scale development projects;

(b) In the same vein, make human rights impact assessments a requirement for obtaining funding, and ensure the inclusion of proper mitigation strategies (including for setting up project- or company-level accountability and grievance mechanisms) and realistic assessments of whether a project can be implemented without causing an adverse impact on the human rights of those affected, recognizing that such an impact is unacceptable and should not be funded;

(c) **Pay close attention to protection assessments for those participating in and affected by large-scale development projects;**

(d) **Proactively disclose information about projects they support;**

(e) **If they are private and institutional donors and investors, have accountability mechanisms in place for those adversely affected by projects or who feel their rights have been violated as a result of a project, and ensure that such mechanisms respect standards for confidentiality, have an early warning system in case of threats or other violations against those who have filed or are considering filing a petition, with proper risk assessment and protection measures available;**

(f) **If they are State donors, ensure that accountability issues are also addressed in their home countries, notably by ensuring that the national contact point of the Organization for Economic Cooperation and Development receives adequate resources and is properly equipped to deal with complaints;**

(g) **Cooperate with State-based and other accountability mechanisms when approached by them;**

(h) **Coordinate with other donors through relevant forums to ensure the implementation of human rights-based approaches;**

(i) **Allocate funds to capacity-building for those affected by large-scale development projects and those defending their rights;**

(j) **Exert political pressure on those responsible for large-scale development projects, when needed and appropriate, to ensure compliance with international human rights standards.**

85. **Human rights defenders should:**

(a) **Engage constructively in processes relating to large-scale development projects;**

(b) **Pay close attention to the needs and views of local communities, and ensure participation of those traditionally marginalized or excluded from decision-making.**

86. **United Nations agencies should:**

(a) **Ensure that a human rights impact assessment is conducted for every project undertaken, and pay specific attention to the participation and protection needs of affected communities and those defending their rights;**

(b) **Support accountability mechanisms, whether initiated by States or other stakeholders.**